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Attorney for Defendant Kevin Kjonaas

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA, : Honorable Mary L. Cooper, U.S.D.J.
Plaintiff, : CRIMINAL NO. 04-373
v. :
STOP HUNTINGDON ANIMAL :
CRUELTY USA, INC., :
KEVIN KJONAAS, a/k/a :
“Kevin Jonas,” a/k/a “Steve :
Shore,” a/k/a “Jim Fareer,” :
LAUREN GAZZOLA, :
a/k/a “Angela Jackson,” a/k/a :
“Danielle Matthews,” :
JACOB CONROY, :
JOSHUA HARPER, :
ANDREW STEPANIAN, :
DARIUS FULLMER, and :
JOHN McGEE, :
Defendants. :
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NOTICE OF MOTION
FOR EVIDENTIARY HEARING
RELATING TO SUPPRESSION,
AND
FOR SUPPRESSION OF EVIDENCE
OBTAINED BY (1) INTERCEPTION OF
WIRE COMMUNICATIONS, (2)
INTERCEPTION OF ELECTRONIC
COMMUNICATIONS, AND (3)
SEARCH OF 101 HOME STREET,
SOMERSET, NJ

To: Clerk of the Court
United States District Court, D.N.J.
Clarkson S. Fisher Federal Building and U.S. Courthouse
402 E. State Street, 5th Floor
Trenton, NJ 08608

Assistant United States Attorney Charles B. McKenna
U.S. Attorney's Office
970 Broad Street, Room 700
Newark, NJ 07102

Assistant United States Attorney Ricardo Solano
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970 Broad Street, Room 700
Newark, NJ 07102

PLEASE TAKE NOTICE that, on April 15, 2005, at 10 a.m. or as soon thereafter as counsel may be heard, counsel for Defendant Kevin Kjonaas shall move before the Honorable Mary L. Cooper, U.S.D.J., at the United States Court House, at 402 E. State Street, 5th Floor, Trenton, NJ 08608, for an evidentiary hearing, pursuant to Franks v. Delaware, 438 U.S. 154 (1978), on alleged misstatements and omissions of fact in the affidavits submitted by the Government in support of its applications for wiretaps, electronic intercepts, and search warrant of defendants' residence at 101 Home Street in Somerset, NJ. Mr. Kjonaas moves the Court to order suppressed all evidence obtained by means of the wiretaps, electronic intercepts, and home search, on the basis that the remaining content of the applications and affidavits (when reviewed without the misstatements and with the omissions appropriately weighed) was insufficient to establish probable cause for commission of the offenses upon which the applications were based.

This motion is made pursuant to Franks v. Delaware and its progeny, as well as the Fourth Amendment to the U.S. Constitution, and 18 U.S.C. §§ 2515, 2516, and 2518.

In support of the Motion, Defendant Kjonaas will rely on the memorandum of law and the Certification of Isabel McGinty (submitted electronically with this Notice), the separate volume of referenced exhibits (filed under seal), and on argument of counsel at the hearing on the motion. Pursuant to the Notice of the New Judicial Conference Policy on Privacy and Public Access to Electronic Criminal Case Files, dated Oct. 7,

2004 (D.N.J.), and the E-Government Act of 2002 cited therein, the volume of exhibits relating to this motion is filed under seal and not electronically.

Respectfully submitted,

/s/
ISABEL McGINTY, P.C.
162 Broad Street
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(609) 443-0650
Attorney for Defendant Kevin Kjonaas

Dated: March 11, 2005